

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Rashaad Thomas,) C/A No.: 7:19-1427-BHH
Plaintiff,)
vs.) **ORDER AND OPINION**
Michael Walsh, Spencer Smith, Esq.,)
Defendants.)

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On June 6, 2019, the Magistrate Judge issued a Report and Recommendation recommending that this case be dismissed *without prejudice* and without issuance and service of process as Plaintiff's complaint is barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), the claims against Assistant Solicitor Spencer Smith are barred by the doctrine of prosecutorial immunity, and the claims against Officer Michael Walsh fail in light of probable cause established by the resulting grand jury indictments against Plaintiff. (ECF No. 15.) Moreover, the Magistrate Judge recommends that the Court decline to exercise supplemental jurisdiction over Plaintiff's state law claims. (*Id.*)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with

instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

Plaintiff filed no objections and the time for doing so expired on June 24, 2019. In the absence of objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff's claims against Defendants are subject to summary dismissal for all of the reasons stated in the Report and Recommendation, and Plaintiff cannot cure the defects identified by amending his Complaint. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED *without* prejudice.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

June 26, 2019
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.